REVIEWS.

COMMENTARIES ON THE LAW OF INSURANCE. By Charles Fiske Beach, Jr. Boston and New York: Houghton, Mifflin & Co. 1895. 2 vols. pp. cxxviii. 606, xx. 944.

In works on Insurance it is customary for authors to discuss the authorities freely, and to present their own views. From this custom, founded perhaps in the fact that this branch of law is of comparatively recent development and has been consciously affected by the views of merchants and of Continental jurists, these volumes by Mr. Beach depart as widely as possible. His text is largely composed of full extracts from recent judicial opinions, reprinted without comment. Even when he states propositions of law in his own language, he gives no discussion. An author thus modestly effacing himself — not attempting to trace the growth and modification of doctrine, not explaining the reasons underlying the law, and refraining from criticising and comparing decisions — appears to make a mistake when he entitles his volumes "Commentaries"; but the quotation marks enclosing the greater part of Mr. Beach's text frankly and accurately describe his work, and thus make it impossible to base a hostile criticism upon the misnomer.

From what has been said it is obvious that these volumes cannot serve as the student's introduction to Insurance, or as the practitioner's most valuable source of knowledge, but that persons already thoroughly acquainted with the history and principles of Insurance and with the famous leading cases may find here an easy method of supplementing their knowledge by reading liberal extracts from recent opinions.

E. W.

HANDBOOK OF AMERICAN CONSTITUTIONAL LAW. By Henry Campbell Black, M. A. St. Paul, Minn., West Publishing Co., 1895. pp. xxiv. 627. (Hornbook Series.)

This book has decided merit. The author is frequently dogmatic concerning points upon which one would be inclined to differ with him. For instance, he says that "the construction of a system of sewers . . . in a city . . . is not a public purpose as regards the people of the State at large." To one writing in Massachusetts, the reasonable language of the Supreme Court here upon this very point instantly occurs. "Everything is a public use," say they, "which tends to enlarge the resources, increase the industrial energies, and promote the productive power of any considerable number of the inhabitants of a section of the State." Talbot *v.* Hudson, 16 Gray, 417, cited in Kingman et al., Pet'rs, 153 Mass. 566, as the ground of the decision in the latter case in favor of State aid to a metropolitan sewerage system. That a large part of such a handbook should be dogmatic in order to brevity will be admitted by every one; but students of the branch of constitutional law which involves this question of what is a public use, and, it may be added, students also of the question as to what is a taking of property, are entitled, even in the briefest handbook, to learn that there are two schools upon such important questions, — and Mr. Black does not supply that information. And so it is of one or two other moot points. For instance, the view of the minority in the Slaughter-House Cases on the meaning of the word liberty

is nowhere stated. And yet, considering its following in State courts, it represents a tendency important enough to deserve notice, even in a handbook. An Illinois student is entitled to know that a statute requiring a flagman at a crossing will be held to deprive the railway company of liberty, however objectionable the reasoning. Mr. Black gives a reference to one New York case in a foot-note, and that is all.

When one turns, however, from this somewhat summary disposal of important questions, the dogmatism becomes of the greatest importance and merit, and makes the body of the book most satisfactory, so that it ought to be of great service to any one studying or reviewing constitutional law. The neat and accurate language in which the contention that statutes may be bad as against mere public policy or natural justice is disposed of, the terse comment on the Dartmouth College Case, the treatment of the question of the implied powers of the Federal Government, are a few instances among many possible ones which will show to any one who looks over the book that it is a really good elementary student's work except for the one fault discussed above. R. W. H.

AMERICAN PROBATE LAW AND PRACTICE. By Frank S. Rice. Albany: Matthew Bender. 1894. 8vo. pp. l. 786.

The style of text-book, of which this work of Mr. Rice as well as his former ones on Evidence are very good types, seems to be on the increase. A digest is a very useful article to have at one's elbow, but we are apt to desire something more when we turn to the text-book. A full and complete discussion of authorities, of course, must precede or follow any dealing with a matter theoretically, but one does like the author's own idea somewhere. It would seem to be much wiser to give us a few thoughts on the subjects which we could not find by glancing through authorities in general, than to increase the size of the volume (as well as of the price) by infinite quotation and repetition. The law of supply and demand governs in most matters, however, and there must exist a demand for books of this character or they would not increase. They seem to be very popular, as we are informed in the Preface of this work that "the very flattering reception accorded to the author's former efforts" makes him hopeful of the success of this.

The author has succeeded, however, in giving us what appears to be a very good collection of authorities on a subject that seems to have been neglected. It is rather peculiar that no one has undertaken this task before, but as a whole it is said to be untouched. The book purports to deal with the "general principles governing the execution and proof of wills, the devolution of property, the administration of estates, and the relations subsisting between guardian and ward," and covers these matters quite thoroughly. The selection of authorities is a very wise one. At page 54 he deduces from *Barry* v. *Butlin* — or rather quotes from Baron Parke — the principle that the *onus probandi* lies on the party producing the will and rests on him all the way through; at page 275, from *Re Phene's Trust*, the principle that although after seven years a man is presumed to be dead, there is no presumption as to the time of his death. (This statement is then repeated, in the form of quotations, three times on this page.) Examples might be noted at length, but they will hardly make the book and its style plainer. In a word, it is a book which could have told us as much in a few hundred pages less just as well, and saved our